

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

NOT FOR PUBLICATION
OCT 18 2012

BROOKLYN OFFICE

DERRICK M. JOHNSON, A/K/A IMAN
SHAHEED-MUHAMMAD ABDURRAHMAN,
On Behalf of Himself And All Those Similarly
Situated,

Plaintiff,

-against-

MICHAEL BLOOMBERG, Mayor of NYC;
RAY KELLY, Commissioner of NYPD; THE
CITY OF NEW YORK; THE NEW YORK
CITY POLICE DEPARTMENT; THE LAW
DEPARTMENT OF THE CITY OF NEW YORK;
and JOHN DOES # 1-50,

Defendants.

AMON, Chief United States District Judge.

On March 21, 2012, plaintiff filed this 42 U.S.C. § 1983 *pro se* action alleging that the City of New York and various employees of the City of New York have violated the plaintiff's and others' constitutional rights by illegally spying on the Muslim community in New York City.

On April 13, 2012, the Court granted plaintiff's request to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a), and advised plaintiff that as a *pro se* party he could not bring this action on behalf of all "similarly situated" persons pursuant to Rule 23 of the Federal Rules of Civil Procedure. In the same order, the Court found that it was unclear from the face of the complaint whether plaintiff had standing to bring this action based on some personal injury he suffered, or whether he was asserting only a generalized grievance about the rights of the entire Muslim community of New York. The Court granted plaintiff thirty (30) days leave to file an

amended complaint establishing that he has standing to bring this action. Plaintiff was warned that if he failed to file an amended complaint, judgment dismissing this action would be entered. See Johnson v. Bloomberg, No. 12 CV 1270 (CBA), 2012 WL 1317808, at *1 (E.D.N.Y. Apr. 13, 2012).

The Court's April 13, 2012 order was mailed to plaintiff on April 16, 2012. See Dkt. No. 3. By letter dated April 18, 2012, plaintiff submitted a change of address notice. See Dkt. No. 4. On April 19, 2012, the Court's April 13, 2012 order was resent to plaintiff's new address. One day later, on April 20, 2012, plaintiff filed an amended complaint to add the addresses of the various defendants. See Dkt. No. 5. The amended complaint makes no additional changes to the original complaint and does not address the deficiencies identified in the Court's April 13, 2012 order.

On June 4, 2012, the Court granted plaintiff an additional thirty (30) days to submit a second amended complaint in accordance with the Court's April 13, 2012 order because it was unclear if plaintiff received the Court's April 13, 2012 order prior to filing his amended complaint. See Dkt. No. 6. The June 4, 2012 order reminded plaintiff that his application to bring this action on behalf of "all those similarly situated," pursuant to Rule 23 of the Federal Rules of Civil Procedure had been denied. Plaintiff was granted the opportunity to file a second amended complaint to establish that he has standing to bring this action and to specify facts and dates supporting his claims, including the personal involvement of each named defendant.

To date, plaintiff has failed to respond to the Court's June 4, 2012 order and has not filed a second amended complaint. Therefore, based on a review of plaintiff's original and amended complaints, the Court finds that plaintiff lacks standing to bring this action. Cooper v. U.S. Postal Serv., 577 F.3d 479, 489 (2d Cir. 2009).

Accordingly, it is

ORDERED, ADJUDGED AND DECREED: that the action is hereby dismissed without prejudice for lack of standing. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order and Judgment would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of any appeal. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

/S/ Chief Judge Amon

Carol Bagley Amon *U* /
Chief Judge, United States District Court

Dated: Brooklyn, New York
October 18, 2012